

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.43 OF 2006

Mrs.Manjula Mehta. ...Petitioner
Vs.
1. Share Shoppe
2. Pramodkumar Jain Securities
Pvt.Ltd. ...Respondents.

Ms.M.Thakkar i/b. R.V.Thakkar & Ms.S.V.Thakkar, for
Petitioner.

Mr.C.Abuwala i/b. Dire & Co. for Respondent no.1.

Mr.Bergis Somandy i/b. Vinod Juwale, for Respondent
no.2.

CORAM: D.K.DESHMUKH, J.

DATED: 24th April,2006

P.C.:-

1. By this petition filed under Section 34 of the Arbitration and Conciliation Act,1996 the Award made by the Appellate Tribunal of the Bombay Stock Exchange, declining to make additional Award in favour of the petitioner, is challenged. It appears

that before the Appellate Tribunal the petitioner has raised two grounds; one was in relation to the shares and the other was in relation to the credit balance in her account. The Appellate Tribunal has made the Award in favour of the petitioner directing the respondents to make payment of Rs.4,66,171/- with interest. No Award was made by the Appellate Tribunal in relation to the credit balance, and therefore, the petitioner moved an application under Section 33 of the Act claiming that though claims in relation to credit balance was raised in the memorandum of appeal, the Appellate Tribunal has omitted to make Award in relation to that claim. The application was disposed of by the Appellate Arbitral Tribunal by its order dated 19.9.2005. In so far as the application made by the petitioner is concerned, the Appellate Tribunal has observed thus in the Award:

“Similarly, the application made by the Appellant also cannot be accepted as only point argued before us was that the reference against the 2nd Respondent had been wrongly rejected. We cannot reopen the matter and consider the claim for additional amount.”

It is clear from the above quoted observation that

the only reason for which the application has been rejected is that as this part of the claim which according to the petitioner was omitted by the Appellate tribunal from consideration, was not argued before the Appellate Tribunal. Perusal of the petition shows that though admittedly the petitioner was represented by a Lawyer before the Appellate Tribunal there is no statement to be found that the lawyer had in fact argued the said claim before the Arbitral Tribunal. Affidavit of the Lawyer that he had actually argued the point is also not filed. Thus, there is no material on record produced by the petitioner showing that the observation made by the Appellate Tribunal that the point was not argued before them, is in any way wrong. In my opinion, therefore, there is no reason for this Court to interfere with the Award. The petition fails and is dismissed. The petitioner to pay cost of this petition to the respondents as incurred by the respondents.
